

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ANDREW JAVIER SANCHEZ,

Plaintiff,

v.

CIVIL ACTION NO. 5:07-cv-00355

CHARLES FELTS, et al.,

Defendants

MEMORANDUM OPINION

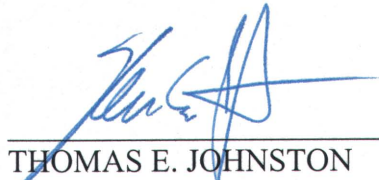
Pending before the Court are Plaintiff's Motion for Summary Judgment [Docket 24], and Defendants' Motion to Dismiss or, in the alternative, Motion for Summary Judgment [Docket 43]. By Standing Order entered on August 1, 2006, and filed in this case on June 5, 2007, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation (PF&R). Magistrate Judge Stanley filed her PF&R [Docket 52] on August 5, 2008, recommending that this Court **FIND** that it lacks jurisdiction over Plaintiff's Federal Tort Claims Act (FTCA) claims, **GRANT** the motion to dismiss as to Defendants McLain and Edwards, **GRANT** Defendants' motion for summary judgment as to Plaintiff's *Bivens* claims, and **DENY** Plaintiff's motion for summary judgment.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely

objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). On August 21, 2008, Plaintiff filed a letter-form motion seeking an extension of time to file his objections to the PF&R. By Order dated August 25, 2008, the Court granted Plaintiff's motion and extended the deadline for filing objections to September 15, 2008. That date has passed, however, no objections have been filed.

Accordingly the Court **ADOPTS** the recommendation contained in the PF&R [Docket 52], **FINDS** that it lacks jurisdiction over Plaintiff's Federal Tort Claims Act (FTCA) claims, **GRANTS** the Motion to Dismiss [Docket 43] as to Defendants McLain and Edwards, **GRANTS** Defendants' Motion for Summary Judgment [Docket 43] as to Plaintiff's *Bivens* claims, **DENIES** Plaintiff's Motion for Summary Judgment [Docket 24], and **DISMISSES** the case. A separate Judgment Order will enter this day implementing the rulings contained herein.

ENTER: September 16, 2008

A handwritten signature in blue ink, appearing to read "Th. Johnston", is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE